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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 212, 225, and 245**

**Defense Federal Acquisition Regulation Supplement; Technical Amendments**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

**DATES:** Effective [Insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

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**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS as follows:

1. Revises the format and presentation of the list of solicitation provisions and contract clauses for the acquisition of commercial items at DFARS 212.301(f). No changes are made to the provisions and clauses or to the prescriptions for their

use, only the manner in which they are listed. Instead of a single continuous list, the provisions and clauses are being grouped and listed by the applicable DFARS part. This change will facilitate making additions or deletions to the appropriate part of the list without having to redesignate and renumber unaffected paragraphs in other parts to accommodate such changes.

2. Revises the provision prescriptive language at DFARS 225.1101, paragraph (9), for clarity and to align with the format used for other prescription paragraphs within this section. No changes are made to the provision or the substance of the prescriptive language for using the provision.

3. Corrects the estimated value cited at DFARS 225.1101(10)(i) to read \$100,000 in lieu of \$79,507.

4. Updates the address of the National GeoSpatial-Intelligence Agency at DFARS 245.102(1)(ii)(A).

#### **List of Subjects in 48 CFR Parts 212, 225, and 245**

Government procurement.

**Manuel Quinones,**

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 225, and 245 are amended as follows:

1. The authority citation for 48 CFR parts 212, 225, and 245

continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

2. Revise section 212.301 to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) The following additional provisions and clauses apply to DoD solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items. If the offeror has completed any of the following provisions listed in this paragraph electronically as part of its annual representations and certifications at <https://www.acquisition.gov>, the contracting officer shall consider this information instead of requiring the offeror to complete these provisions for a particular solicitation.

(i) *Part 203—Improper Business Practices and Personal Conflicts of Interest.* (A) Use the FAR clause at 52.203-3, Gratuities, as prescribed in FAR 3.202, to comply with 10 U.S.C. 2207.

(B) Use the clause at 252.203-7000, Requirements Relating to Compensation of Former DoD Officials, as prescribed in 203.171-4(a), to comply with section 847 of Pub. L. 110-181.

(C) Use the clause at 252.203-7003, Agency Office of the Inspector General, as prescribed in 203.1004(a), to comply with section 6101 of Pub. L. 110-252 and 41 U.S.C. 3509.

(D) Use the provision at 252.203-7005, Representation Relating to Compensation of Former DoD Officials, as prescribed in 203.171-4(b).

(ii) *Part 204—Administrative Matters.* (A) Use the provision at 252.204-7011, Alternative Line Item Structure, as prescribed in 204.7109(b).

(B) Use the clause at 252.204-7012, Safeguarding of Unclassified Controlled Technical Information, as prescribed in 204.7303.

(C) Use the provision at 252.204-7013, Limitations on the Use or Disclosure of Information by Litigation Support Solicitation Offerors, as prescribed in 204.7403(a), to comply with 10 U.S.C. 129d.

(D) Use the clause at 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors, as prescribed in 204.7403(b), to comply with 10 U.S.C. 129d.

(E) Use the clause at 252.204-7015, Disclosure of Information to Litigation Support Contractors, as prescribed in 204.7403(c), to comply with 10 U.S.C. 129d.

(iii) *Part 205—Publicizing Contract Actions.* Use the clause at 252.205-7000, Provision of Information to Cooperative Agreement Holders, as prescribed in 205.470, to comply with 10 U.S.C. 2416.

(iv) *Part 211—Describing Agency Needs.* (A) Use the clause at 252.211-7003, Item Unique Identification and Valuation, as prescribed in 211.274-6(a)(1).

(B) Use the provision at 252.211-7006, Passive Radio Frequency Identification, as prescribed in 211.275-3.

(C) Use the clause at 252.211-7007, Reporting of Government-Furnished Property, as prescribed in 211.274-6.

(D) Use the clause at 252.211-7008, Use of Government-Assigned Serial Numbers, as prescribed in 211.274-6(c).

(v) *Part 215—Contracting by Negotiation.* (A) Use the provision at 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation, as prescribed at 215.408(3)(i).

(B) Use the clause at 252.215-7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation, as prescribed at 215.408(3)(ii).

(C) Use the provision at 252.215-7007, Notice of Intent to Resolicit, as prescribed in 215.371-6.

(D) Use the provision 252.215-7008, Only One Offer, as prescribed at 215.408(4).

(vi) *Part 219—Small Business Programs.* (A) Use the clause at 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), as prescribed in 219.708(b)(1)(A)(1), to comply with 15 U.S.C. 637.

Use the clause with its Alternate I when prescribed in 219.708(b)(1)(A)(2).

(B) Use the clause at 252.219-7004, Small Business Subcontracting Plan (Test Program), as prescribed in 219.708(b)(1)(B), to comply with 15 U.S.C. 637 note.

(vii) *Part 223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace.* Use the clause at 252.223-7008, Prohibition of Hexavalent Chromium, as prescribed in 223.7306.

(viii) *Part 225—Foreign Acquisition.* (A) Use the provision at 252.225-7000, Buy American—Balance of Payments Program Certificate, to comply with 41 U.S.C. chapter 83 and Executive Order 10582 of December 17, 1954, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act.

(1) Use the basic provision as prescribed in 225.1101(1)(i).

(2) Use the alternate I provision as prescribed in 225.1101(1)(ii).

(B) Use the clause at 252.225-7001, Buy American and Balance of Payments Program, to comply with 41 U.S.C. chapter 83 and Executive Order 10582 of December 17, 1954, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act.

(1) Use the basic clause as prescribed in 225.1101(2)(ii).

(2) Use the alternate I clause as prescribed in 225.1101(2)(iii).

(C) Use the clause at 252.225-7008, Restriction on Acquisition of Specialty Metals, as prescribed in 225.7003-5(a)(1), to comply with 10 U.S.C. 2533b.

(D) Use the clause at 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, as prescribed in 225.7003-5(a)(2), to comply with 10 U.S.C. 2533b.

(E) Use the provision at 252.225-7010, Commercial Derivative Military Article—Specialty Metals Compliance Certificate, as prescribed in 225.7003-5(b), to comply with 10 U.S.C. 2533b.

(F) Use the clause at 252.225-7012, Preference for Certain Domestic Commodities, as prescribed in 225.7002-3(a), to comply with 10 U.S.C. 2533a.

(G) Use the clause at 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools, as prescribed in 225.7002-3(b), to comply with 10 U.S.C. 2533a.

(H) Use the clause at 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, as prescribed in 225.7009-5, to comply with section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts.

(I) Use the clause at 252.225-7017, Photovoltaic Devices, as prescribed in 225.7017-4(a), to comply with section 846 of Pub. L. 111-383.

(J) Use the provision at 252.225-7018, Photovoltaic Devices—Certificate, as prescribed in 225.7017-4(b), to comply with section 846 of Pub. L. 111-383.

(K) Use the provision at 252.225-7020, Trade Agreements Certificate, to comply with 19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note. Alternate I also implements section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(1) Use the basic provision as prescribed in 225.1101(5)(i).

(2) Use the alternate I provision as prescribed in 225.1101(5)(ii).

(L) Use the clause at 252.225-7021, Trade Agreements to comply with 19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note.

(1) Use the basic clause as prescribed in 225.1101(6)(i).

(2) Use the alternate II clause as prescribed in 225.1101(6)(iii).

(M) Use the provision at 252.225-7023, Preference for Products or Services from Afghanistan, as prescribed in 225.7703-4(a), to comply with section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).



(N) Use the clause at 252.225-7024, Requirement for Products or Services from Afghanistan, as prescribed in 225.7703-4(b), to comply with section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(O) Use the clause at 252.225-7026, Acquisition Restricted to Products or Services from Afghanistan, as prescribed in 225.7703-4(c), to comply with section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(P) Use the clause at 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales, as prescribed in 225.7307(a), to comply with 22 U.S.C. 2779.

(Q) Use the clause at 252.225-7028, Exclusionary Policies and Practices of Foreign Governments, as prescribed in 225.7307(b), to comply with 22 U.S.C. 2755.

(R) Use the clause at 252.225-7029, Acquisition of Uniform Components for Afghan Military or Afghan National Police, as prescribed in 225.7703-4(d).

(S) Use the provision at 252.225-7031, Secondary Arab Boycott of Israel, as prescribed in 225.7605, to comply with 10 U.S.C. 2410i.

(T) Use the provision at 252.225-7035, Buy American-Free Trade Agreements-Balance of Payments Program Certificate, to comply with 41 U.S.C. chapter 83 and 19 U.S.C. 3301 note. Alternates II,

III, and V also implement section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(1) Use the basic provision as prescribed in 225.1101(9)(i).

(2) Use the alternate I provision as prescribed in 225.1101(9)(ii).

(3) Use the alternate II provision as prescribed in 225.1101(9)(iii).

(4) Use the alternate III provision as prescribed in 225.1101(9)(iv).

(5) Use the alternate IV provision as prescribed in 225.1101(9)(v).

(6) Use the alternate V provision as prescribed in 225.1101(9)(vi).

(U) Use the clause at 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program to comply with 41 U.S.C. chapter 83 and 19 U.S.C. 3301 note. Alternates II, III, and V also implement section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(1) Use the basic clause as prescribed in 225.1101(10)(i)(A).

(2) Use the alternate I clause as prescribed in 225.1101(10)(i)(B).

(3) Use the alternate II clause as prescribed in 225.1101(10)(i)(C).

(4) Use the alternate III clause as prescribed in 225.1101(10)(i)(D).

(5) Use the alternate IV clause as prescribed in 225.1101(10)(i)(E).

(6) Use the alternate V clause as prescribed in 225.1101(10)(i)(F).

(V) Use the provision at 252.225-7037, Evaluation of Offers for Air Circuit Breakers, as prescribed in 225.7006-4(a), to comply with 10 U.S.C. 2534(a)(3).

(W) Use the clause at 252.225-7038, Restriction on Acquisition of Air Circuit Breakers, as prescribed in 225.7006-4(b), to comply with 10 U.S.C. 2534(a)(3).

(X) Use the clause at 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States, as prescribed in 225.7402-5(a).

(Y) Use the clause at 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, as prescribed in 225.7403-2.

(Z) Use the provision at 252.225-7049, Prohibition on Acquisition of Commercial Satellite Services from Certain Foreign Entities—Representations, as prescribed at 225.772-5, to comply with 10 U.S.C. 2327(b).

(AA) Use the provision at 252.225-7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, as prescribed in 225.771-5, to comply with 10 U.S.C. 2327(b).

(ix) *Part 226--Other Socioeconomic Programs.* Use the clause at 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns, as prescribed in 226.104, to comply with section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts.

(x) *Part 227--Patents, Data, and Copyrights.* (A) Use the clause at 252.227-7013, Rights in Technical Data-Noncommercial Items, as prescribed in 227.7103-6(a). Use the clause with its Alternate I as prescribed in 227.7103-6(b)(1). Use the clause with its Alternate II as prescribed in 227.7103-6(b)(2), to comply with 10 U.S.C. 7317 and 17 U.S.C. 1301, *et seq.*

(B) Use the clause at 252.227-7015, Technical Data-Commercial Items, as prescribed in 227.7102-4(a)(1), to comply with 10 U.S.C. 2320. Use the clause with its Alternate I as prescribed in 227.7102-4(a)(2), to comply with 10 U.S.C. 7317 and 17 U.S.C. 1301, *et seq.*

(C) Use the clause at 252.227-7037, Validation of Restrictive Markings on Technical Data, as prescribed in 227.7102-4(c).

(xi) *Part 232—Contract Financing.* (A) Use the clause at 252.232-7003, *Electronic Submission of Payment Requests and Receiving Reports*, as prescribed in 232.7004, to comply with 10 U.S.C. 2227.

(B) Use the clause at 252.232-7006, *Wide Area WorkFlow Payment Instructions*, as prescribed in 232.7004(b).

(C) Use the clause at 252.232-7009, *Mandatory Payment by Governmentwide Commercial Purchase Card*, as prescribed in 232.1110.

(D) Use the clause at 252.232-7010, *Levies on Contract Payments*, as prescribed in 232.7102.

(E) Use the clause at 252.232-7011, *Payments in Support of Emergencies and Contingency Operations*, as prescribed in 232.908.

(F) Use the provision at 252.232-7014, *Notification of Payment in Local Currency (Afghanistan)*, as prescribed in 232.7202.

(xii) *Part 237—Service Contracting.* (A) Use the clause at 252.237-7010, *Prohibition on Interrogation of Detainees by Contractor Personnel*, as prescribed in 237.173-5, to comply with section 1038 of Pub. L. 111-84.

(B) Use the clause at 252.237-7019, *Training for Contractor Personnel Interacting with Detainees*, as prescribed in 237.171-4, to comply with section 1092 of Pub. L. 108-375.

(xiii) *Part 239--Acquisition of Information Technology.* (A) Use the provision at 252.239-7017, *Notice of Supply Chain Risk*, as prescribed in 239.7306(a), to comply with section 806 of Pub.

L. 111-383, in all solicitations for contracts involving the development or delivery of any information technology, whether acquired as a service or as a supply.

(B) Use the clause at 252.239-7018, Supply Chain Risk, as prescribed in 239.7306(b), to comply with section 806 of Pub. L. 111-383, in all solicitations and contracts involving the development or delivery of any information technology, whether acquired as a service or as a supply.

(xiv) *Part 243-Contract Modifications.* Use the clause at 252.243-7002, Requests for Equitable Adjustment, as prescribed in 243.205-71, to comply with 10 U.S.C. 2410.

(xv) *Part 244-Subcontracting Policies and Procedures.* Use the clause at 252.244-7000, Subcontracts for Commercial Items, as prescribed in 244.403.

(xvi) *Part 246-Quality Assurance.* (A) Use the clause at 252.246-7003, Notification of Potential Safety Issues, as prescribed in 246.371(a).

(B) Use the clause at 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations, as prescribed in 246.270-4, to comply with section 807 of Pub. L. 111-84.

(xvii) *Part 247-Transportation.* (A) Use the clause at 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge

Adjustment to the Cost Bearer, as prescribed in 247.207, to comply with section 884 of Pub. L. 110-417.

(B) Use the provision at 252.247-7022, Representation of Extent of Transportation by Sea, as prescribed in 247.574(a).

(C) Use the basic or one of the alternates of the clause at 252.247-7023, Transportation of Supplies by Sea, as prescribed in 247.574(b), to comply with the Cargo Preference Act of 1904 (10 U.S.C. 2631(a)).

(1) Use the basic clause as prescribed in 247.574(b)(1).

(2) Use the alternate I clause as prescribed in 247.574(b)(2).

(3) Use the alternate II clause as prescribed in 247.574(b)(3).

(D) Use the clause at 252.247-7024, Notification of Transportation of Supplies by Sea, as prescribed in 247.574(c).

(E) Use the clause 252.247-7025, Reflagging or Repair Work, as prescribed in 247.574(d), to comply with 10 U.S.C. 2631(b).

(F) Use the provision at 252.247-7026, Evaluation Preference for Use of Domestic Shipyards—Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade, as prescribed in 247.574(e), to comply with section 1017 of Pub. L. 109-364.

(G) Use the clause at 252.247-7027, Riding Gang Member Requirements, as prescribed in 247.574(f), to comply with section 3504 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417).

(H) Use the clause at 252.247-7028, Application for U.S Government Shipping Documentation/Instructions, as prescribed in 247.207.

**PART 225—FOREIGN ACQUISITION**

3. Amend section 225.1101 by—

- a. Revising paragraphs (9)(ii) through (vi); and
- b. In paragraph (10)(i)(A), removing "\$79,507" and adding "\$100,000" in its place.

The revision reads as follows:

**225.1101 Acquisition of supplies.**

\* \* \* \* \*

(9) \* \* \*

(ii) Use the alternate I provision when the solicitation includes alternate I of the clause at 252.225-7036.

(iii) Use the alternate II provision when the solicitation includes alternate II of the clause at 252.225-7036.

(iv) Use the alternate III provision when the solicitation includes alternate III of the clause at 252.225-7036.

(v) Use the alternate IV provision when the solicitation includes alternate IV of the clause at 252.225-7036.



(vi) Use the alternate V provision when the solicitation includes alternate V of the clause at 252.225-7036.

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**PART 245—GOVERNMENT PROPERTY**

**245.102 [Amended]**

4. Amend section 245.102, paragraph (1)(ii)(A), by removing "Director, National Geospatial Intelligence Agency, 4600 Sangamore Road, Bethesda, MD 20816-5003" and adding "Director, National Geospatial-Intelligence Agency, 7500 Geoint Drive, Springfield, VA 22150" in its place.

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